

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

PANINI AMERICA, INC.,)
)
Plaintiff,)
)
v.) Civil Action No. 4:19-cv-00795-HFS
)
SHAD WING,)
)
Defendant.)

PLAINTIFF'S MOTION FOR TEMPORARY RESTRAINING ORDER

COMES NOW Plaintiff, Panini America, Inc. ("Panini"), through its undersigned attorneys, and requests a temporary restraining order pursuant to 15 U.S.C. § 1116(a) and Federal Rule of Civil Procedure 65(b) preserving the status quo until a hearing can be had on a preliminary injunction. As is set forth in the contemporaneously-filed Memorandum in Support, which is incorporated herein, a temporary restraining order is necessary to protect Panini from reasonably certain irreparable future harm. Panini therefore requests an Order that Defendant and any agents, servants, employees and persons in active concert or participation with him be temporarily enjoined and restrained from:

1. Advertising, soliciting, marketing, selling, offering for sale or otherwise using the RATED ROOKIE, ROOKIE TICKET and CONTENDERS registered marks in connection with sports trading cards;
2. Contacting or otherwise engaging any third parties regarding sports trading cards including one or more of said trademarks, in acts including but not limited to the sale of said cards (online—e.g., via various eBay usernames—or otherwise), or holding themselves out as

owners or being otherwise associated with sports trading cards as being authorized dealers, licensees or distributors of cards containing any one or more of the RATED ROOKIE, ROOKIE TICKET and CONTENDERS registered marks.

3. Panini further requests an Order to maintain the status quo and to prevent any removal or spoliation of evidence that Defendant or any agents, servants, employees or persons in active concert or participation with him may otherwise undertake. Panini specifically requests an Order that Defendant be temporarily prevented from:

a. Disposing of, destroying, altering or otherwise moving any and all cards containing one or more of the RATED ROOKIE, ROOKIE TICKET and CONTENDERS registered marks out of the reach or control of this Court; and,

b. Disposing of, destroying, altering or otherwise moving any and all printers, computers, computer programs or other devices, materials or systems used in making, marking or packaging cards containing one or more of the RATED ROOKIE, ROOKIE TICKET and CONTENDERS registered marks beyond the reach or control of this Court by surrendering same over to the custody of the U.S. Marshall pending a hearing for Preliminary Injunction; and,

4. Ordering Plaintiff to deposit with the Court a reasonable sum, either cash or surety bond, as security, determined to be adequate for the payment of such damages that Defendant may be entitled to recover should there be a determination of a wrongful restraint hereunder.

The Court is requested to set a date and time for a preliminary injunction hearing for further evidentiary proceeding if so requested by the Defendant.

Dated: October 21, 2019

Respectfully submitted,

SANDBERG PHOENIX & VON GONTARD P.C.

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**ATTORNEYS FOR PLAINTIFF
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CERTIFICATE OF SERVICE

The undersigned hereby certifies on this 21st day of October 2019, the foregoing was filed using the Court's e-Filing system, which will send notice of electronic filing to all registered attorneys of record.

/s/ G. Harley Blosser